



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,175	12/15/2003	Henning Moller	41653-199394	2131
26694	7590	10/01/2004	EXAMINER	
VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP			DEB, ANJAN K	
P.O. BOX 34385			ART UNIT	
WASHINGTON, DC 20043-9998			PAPER NUMBER	
			2858	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/734,175

Applicant(s)

MOLLER ET AL.

Examiner

Anjan K Deb

Art Unit

2858

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 and 19-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/15/04, 4/06/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of claims 12-18 without traverse is acknowledged.

Claims 1-11,19-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected Groups I, II of invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 07/23/2004.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawakita (US 4,661,773).

Re claim 12 Kawakita discloses (Fig. 1) measuring system for testing a material flow (movement of an object 1) comprising a first device 3 for measuring material flow in a first spatial direction (along Z axis), a second device for measuring the material flow in a second spatial direction (along Y axis), which is different from the first.

Kawakita did not expressly disclose system for testing a material flow in the tobacco-processing industry.

At the time of the invention it would have been obvious for one of ordinary skill in the art to modify the device disclosed by Kawakita by placing the device in a tobacco processing plant for measuring movement of material in tobacco-processing industry.

Re claim 13, Kawakita discloses at least one measuring devices 3 is arranged in a conveying direction of the material flow (first spatial direction along Z axis is considered the conveying direction).

Re claim 14, Kawakita discloses at least one measuring device is arranged to make a measurement crosswise (along Y axis) to a conveying direction of the material flow.

Re claim 15, Kawakita discloses a third measuring device measuring the material flow in a third spatial direction (x-axis) that is different from the first and the second spatial directions.

Re claim 16, Kawakita discloses the three spatial directions (x,y,z) are orthogonal relative to each other (Fig. 1).

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata (EP 0973025 A1).

Re claim 12 Nagata discloses (Fig. 24) measuring system for testing a material flow comprising a first device (56b-1) for measuring material flow in a first spatial direction, a second device (56b-2) for measuring the material flow in a second spatial direction which is different from the first (page 8 lines 40-55).

Nagata did not expressly disclose system for testing a material flow in the tobacco-processing industry.

At the time of the invention it would have been obvious for one of ordinary skill in the art to modify the device disclosed by Nagata by placing the device in a tobacco processing plant for measuring movement of material in tobacco-processing industry.

***Allowable Subject Matter***

5. Claims 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Reasons for Allowance***

6. The following is an examiner's statement of reasons for allowance:

The primary reason for allowance of the claims is the inclusion of a resonator housing having a through opening for the material flow to pass through and a testing region located inside the resonator housing to which the material flow can be moved at least in part and at least one element that increases energy density of electromagnetic waves for increasing the energy density in at least a portion of the testing region.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eckhardt (US 3,676,773) discloses detection of tramp metal contained in electrically non-conductive fluid material by a detector which induces into a secondary winding voltage changed by tramp metal changing the magnetic field.

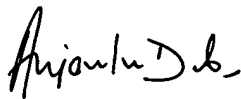
Cox (US 4,127,028) discloses Coriolis mass flow rate metering device comprising plurality of sensors disposed in metal tube (Fig. 1).

Murase (US 4,736,635) discloses a prior-art electromagnetic flowmeter comprising a pair of orthogonal sensors (column 1 lines 29-51)(Fig. 2).

Art Unit: 2858

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Anjan K. Deb whose telephone number is (571)-272-2228. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le, can be reached at (571) 272-2233.



**Anjan K. Deb**

Patent Examiner

Art Unit: 2858

9/12/04

Tel: 571-272-2228

Fax: 571-273-2228

E-mail : [anjan.deb@uspto.gov](mailto:anjan.deb@uspto.gov)